



Costs Decision

Site visit made on 9 March 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2020

Costs application in relation to Appeal Ref: APP/Y2620/W/19/3238583 Breck Lodge, Holt Road, Aylmerton, Norfolk NR11 8QD

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Andy Young for a full award of costs against North Norfolk District Council.
 - The appeal was against the refusal of planning permission for the 'demolition of existing dwelling and erection of replacement dwelling'.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Irrespective of the outcome of the appeal, the Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. From the information before me it would seem that the Council could have communicated better with the applicant and that consultees could have been quicker in providing comments on the proposal. However, these failures took place prior to the appeal being lodged and not during the appeal process. They can be relevant in an application for an award of costs if the poor communication resulted in an unreasonable and substantively flawed decision but that is not the case here. The Council's decision, although late, was well reasoned and properly considered.
4. The apparent lack of communication may have been a contributing factor to the Council missing the determination date by some way. It is not entirely clear why the Council was unable to make its decision by target date. However, the applicant could have lodged an appeal against the failure of the Council to determine his application. This is the remedy in such circumstances. Again, an unreasonable delay can be an aggravating factor to consider in cases where the final decision was flawed or the Council failed to reach a decision without good reason, but these circumstances have not arisen in this instance.
5. The applicant is concerned by the process the Council followed in respect of the local listing of Breck Lodge, especially the lack of contact and public scrutiny. Given the Council's view on the architectural and historic significance of the building, a view I share, it is unsurprising that it sought to locally list the building. However, Breck Lodge is a non-designated heritage asset regardless

- of whether it is locally listed. Therefore, the listing, whilst material, is not of itself a particularly significant point that the appeal turned on.
6. It is clear from the Council's submissions that it does not consider Breck Lodge to be late 18th to mid-19th Century in origin or linked to William Wyndham. The Council took the view that the building was nevertheless of significance. The Council were entitled to come to this subjective judgment. In so doing, it has explained rationally and cogently why it considers this to be the case. As such, there is no substantive failing in the Council's conclusion that the building is of local historic and architectural significance.
 7. The structural report submitted with the planning application was prepared by a specialist engineer. However, this does not render it beyond reasonable scrutiny. There are some limitations in the report. For example, the author makes assumptions about the causes of some of the defects, does not weigh up the options for dealing with them, the recommendations do not seem to follow usual conservation practice (a point reasonably articulated by the Council) and the costs of the works are unsubstantiated. It would be unwise to sanction the demolition of a non-designated heritage asset of a high order of significance based on the findings of a report with these limitations.
 8. It is clear from the Council's submissions that it had proper regard to the evidence provided by the applicant, including the Heritage Report, Landscape and Visual Impact Assessment and the Ecological Report. The Council is not required to accept the findings of the reports, instead its role as the local planning authority is to independently scrutinise and assess them. In so doing it has provided a reasonable commentary explaining why it does not agree with the findings of these reports. The Council's reasoning for taking the decision it did is adequate, being grounded in policy, the merits of the case and a proper assessment of the information available. Thus, the decision was not substantive flawed or unreasonable.

Conclusion

9. For the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred.

Graham Chamberlain,
INSPECTOR